



NLSO MIDLANT Quarterly SJA Newsletter

Naval Legal Service Office Mid-Atlantic

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As indicated in the inaugural issue of the NLSO MIDLANT QUARTERLY SJA NEWSLETTER, this advisory is designed to assist SJAs and service members who require our assistance. The first issue outlined the missions of the various departments: provision of defense counsel; legal assistance to the fleet; and claims adjudication. This issue and subsequent Newsletters will focus on “lessons learned” and “tips” designed to make our mutual work product more complete and efficient.

If there is information you think should be provided in this newsletter, or questions you would like answered, please contact LTJG Colin Topp at (757) 444-4936 or via email at toppcr@jag.navy.mil.

Claims Department



Lessons Learned and Tips

1. KODACHROME ONLY, PLEASE

When conducting a JAGMAN (or litigation report) investigation which includes photographs, put away those fancy digital cameras. When photographs need to be introduced as evidence in ongoing FTCA

court proceedings, and digital prints are used, the Assistant U.S. Attorney is required to authenticate the prints. That task becomes Herculean. In most cases the command digital camera is used by many different people, each of whom has the capability of altering photographs left in the memory. The authentication of film prints is a much easier process. Therefore, old 35mm and Polaroid cameras are preferable.

2. POTHOLE AND RE-BAR

As a matter of general premises liability, the United States as landowner has a duty to protect invitees and licensees from such damage only if it knows, or should know, of the danger. Stated another way, the United States as landowner does not have to send out a daily “pothole or re-bar” inspection team, but once a danger is discovered by appropriate officials, *e.g.* base police, then a duty to correct or warn arises.

Many commands with whom we interact have a periodic inspection program of roads and parking “stops” to ensure that invitees and licensees are protected. On an installation where we operate inspection programs, and an unknown pothole or re-bar causes damage, we routinely deny claims arising from the damage based upon a finding that there was no negligence on the part of the United States. Therefore, documentation of these programs should be included in any subsequent investigation or SF-91.